

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

**In Re UPSTREAM ADDICKS AND BARKER
(TEXAS) FLOOD CONTROL RESERVOIRS**

THIS DOCUMENT APPLIES TO:

**CASE NO.: 1:22-cv-01077
ISAIAH MASSEY AND HOPE MASSEY**

vs.

THE UNITED STATES OF AMERICA

Sub-Master Docket No. 17-90001L

FIRST AMENDED SHORT FORM COMPLAINT

Reference is made to the Master Amended Complaint for Upstream Plaintiffs (doc. 18) filed in the above-styled Sub-Master Docket on January 16, 2018 (“Master Complaint”). Plaintiff(s) incorporate by reference and adopt each allegation and cause of action, except any allegation pertaining to class allegations (including but not limited to paragraphs 92-104).¹

INSTRUCTIONS

If Plaintiff(s) has not previously filed a complaint in *In Re Addicks And Barker (Texas) Flood-Control Reservoirs* and/or *In re Upstream Addicks And Barker (Texas) Flood-Control Reservoirs*, this Short Form Complaint is Plaintiff(s) original pleading, and must be filed as a new complaint through the Court of Federal Claims CM/ECF System.²

If Plaintiff(s) have previously filed a complaint in *In Re Addicks And Barker (Texas) Flood-Control Reservoirs* and/or *In re Upstream Addicks And Barker (Texas) Flood-Control Reservoirs*, this Short Form Complaint amends and supersedes any prior complaints filed by Plaintiff(s), and Plaintiff(s) should reference the individual Case Number associated with the previously-filed complaint in the caption of this Short Form Complaint.³

¹ At this time, Plaintiff(s) do not seek class treatment and do not opt into any class related to the Master Complaint. Unless and until presented with notice of class certification, at which time Plaintiff(s) will evaluate and determine whether to opt into such certified class, Plaintiff(s) take no position on class certification.

² For more information about how to file a complaint in the Court of Federal Claims, please view the [Instruction Sheet for the Preparation of a Complaint](#)

³ If the allegations are printed on this form and the Plaintiff(s) require more space, please attach an addendum and show the paragraph number that corresponds to the additional information.

INFORMATION REGARDING PLAINTIFF(S)

Plaintiff(s) allege that, in and around Tropical Storm Harvey in August/September 2017 (“Harvey”), water impounded in Barker Reservoir (up to an elevation of 101.5 feet) and in Addicks Reservoir (up to an elevation of 109.1 feet), resulted in real property (the “Real Property”) and/or personal property (the “Personal Property”) belonging to Plaintiff(s) being flooded by the impounded water (collectively, the “Government Action”). The allegations are more fully set forth in the Master Complaint.

1. Name of Plaintiff(s)⁴ : Isaiah Massey and Hope Massey
2. The location by address of Plaintiff(s) Real Property subject to Plaintiff(s) allegations of a Fifth Amendment taking without just compensation, including the property's tax number:
15115 Camelback Court, Houston, TX 77079 - 0992690000020

3. If Plaintiff(s) held Real Property at more than one location, please identify addresses and corresponding tax numbers for each location:

4. At the time of the Government Action, please state Plaintiff(s) property interest in each of the Real Property(s) listed in response to Questions 2 and 3 (*e.g.* Own, Rent, Leasehold, or other):
Own

5. The location by address of Plaintiff(s) Personal Property subject to Plaintiff(s) allegation of a Fifth Amendment Taking without just compensation is as follows:
15115 Camelback Court, Houston, TX 77079 - 0992690000020

6. If Plaintiff(s) held Personal Property at more than one location, Plaintiff(s) identify the location of such other addresses as follows (please list all addresses):

⁴ If this is a multi-plaintiff case, please include a separate numbered list or sheet for each plaintiff that contains the requested information.

7. Check all of the following boxes if Plaintiff(s) assert the same Causes of Action set forth in the Causes of Action section of the Master Complaint. If Plaintiff(s) elect to assert some, but not all, of the Causes of Action set forth in the Causes of Action section of the Master Complaint, check the boxes that Plaintiff(s) intend to assert below:

- ☒ Count I – Temporary Taking of a Flowage Easement without Just Compensation in Violation of the Fifth Amendment.
- ☒ Count II – Temporary Taking of Other Property Interests without Just Compensation in Violation of the Fifth Amendment.
- ☒ Count III – Permanent Taking of Damaged and Destroyed Property without Just Compensation in Violation of the Fifth Amendment.
- ☒ Count IV – Permanent Taking of a Flowage Easement without Just Compensation in Violation of the Fifth Amendment.

WHEREFORE, in accordance with the Court's various Case Management Orders, Plaintiffs respectfully request that the Government be cited to appear and answer this lawsuit, and that, upon final trial or hearing, judgment be awarded against the Government for just compensation in an amount to be determined by the trier of fact; pre-and post-judgment interest at the highest rates; reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees, incurred in the proceeding; cost of suit; and such other and further relief to which Plaintiffs are justly entitled.

Respectfully submitted,

ARNOLD & ITKIN LLP

/s/ Noah Wexler

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CERTIFICATE OF SERVICE

The undersigned certifies a true and correct copy of the foregoing document was forwarded to all known users in this case through the Court's E-file system on this the 25th day of July, 2023.

/s/ Noah Wexler

NOAH WEXLER